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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

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Amendment to The Bell Atlantic )

Transmittal Nos. 741, 786

Telephone Companies )

Amended

Tariff FCC No. 10 )

CC Docket No. 95-145

Video Dialtone Service )

COMMENTS OF BELL ATLANTIC<sup>1</sup>

The Commission has asked for comment on the effect of the Telecommunications Act of 1996 on Bell Atlantic's provision of video service in Dover Township and the Commission's investigation of the Dover tariff.<sup>2</sup>

The Act repealed all video dialtone regulations, effective February 8, 1996.<sup>3</sup> As a result, the regulatory concept

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<sup>1</sup> The Bell Atlantic Telephone Companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc., Bell Atlantic-Maryland, Inc., Bell Atlantic-New Jersey, Inc., Bell Atlantic-Pennsylvania, Inc., Bell Atlantic-Virginia, Inc., Bell Atlantic-Washington, D.C., Inc., and Bell Atlantic-West Virginia, Inc.

<sup>2</sup> See letter from Geraldine A. Matisse, Chief, Tariff Division, Common Carrier Bureau, FCC to Patricia Koch, Assistant Vice President, Bell Atlantic, dated Feb. 16, 1996 ("Matisse Letter").

<sup>3</sup> Telecommunications Act of 1996, P.L. No. 104-104, 11-Stat. 56 (1996), Section 302(b)(3) ("The Commission's regulations and policies with respect to video dialtone requirements issued in CC Docket No. 87-266 shall cease to be effective on the date of enactment of this Act.").

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formerly known as video dialtone service no longer exists. The Act, however, explicitly grandfathered existing service previously authorized by the Commission, such as Bell Atlantic's Dover Township video service.<sup>4</sup> The service Bell Atlantic currently offers in Dover Township is simply a common carrier video transport service, subject to traditional Title II regulation.

The Commission should terminate its current tariff investigation for two reasons. First, as the Commission itself has noted,<sup>5</sup> the issues designated for investigation are based in part on whether the tariff meets the requirements for video dialtone service set out in Commission rules that have been

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<sup>4</sup> Id. ("[The termination of video dialtone regulations and policies] shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act.").

<sup>5</sup> See Matise Letter at 1.

repealed. As a result, there is no longer any legal basis for pursuing most of the issues designated for investigation.<sup>6</sup>

Second, the successor of video dialtone under the Act is known as an "open video system" or "OVS", and the Commission is required to adopt implementing regulations within six months of enactment.<sup>7</sup> Like video dialtone, OVS is an open system available to programmers on a non-discriminatory basis. Unlike video dialtone, OVS service is not subject to tariffing requirements.<sup>8</sup> Although Bell Atlantic is firmly committed to continuing to provide video service to its customers in Dover

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<sup>6</sup> For example, the substantial majority of issues designated by the Commission for investigation concern whether Bell Atlantic's tariff complies with the video dialtone-specific cost allocation requirements established in the Video Dialtone Reconsideration Order, Telephone Company-Cable Television Cross-Ownership Rules, 10 FCC Rcd 244 at ¶¶ 217-220 (1994), which no longer has any force or effect. Similarly, the repeal of the video dialtone rules vitiates the Commission's inquiry into whether its video dialtone policies require Bell Atlantic to serve part-time or one-time users.

<sup>7</sup> Telecommunications Act of 1996, Section 302 (a), Part V, Section 653, (c) (2) (A).

<sup>8</sup> The Telecommunications Act of 1996 requires that open video system regulations shall apply "in lieu of, and not in addition to, the requirements of title II." Section 302 (a), Part V, Section 653 (c) (3). The intent of this section is to avoid the imposition of "title II-like regulation" such as tariffs for open video systems. See Telecommunications Act of 1996 Joint Explanatory Statement of the Committee of Conference at 62.

Township, it will evaluate the appropriate regulatory structure to best serve those customers once the Commission's open video system rules are in place.

As a result, especially given the small number of households currently served by the system,<sup>9</sup> it would not be a productive use of Commission resources and taxpayers' money for the Commission to pursue the tariff investigation at this time.

Should the Commission choose, however, to continue its tariff investigation at this time, it must abandon all issues which are based on the now-defunct video dialtone rules, and evaluate the tariff strictly under the Title II standards applicable to any other common carrier tariffed service.

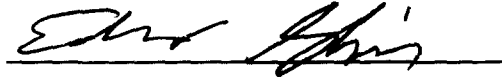
### Conclusion

The Commission should defer any further investigation of Bell Atlantic's video dialtone tariff for Dover Township, without requiring any modification to Bell Atlantic's existing video transport tariff at this time.

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<sup>9</sup> The system currently serves only about 2,400 homes and will only pass up to an additional 9000 homes during the next six months.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Edward Shakin", is written over a horizontal line.

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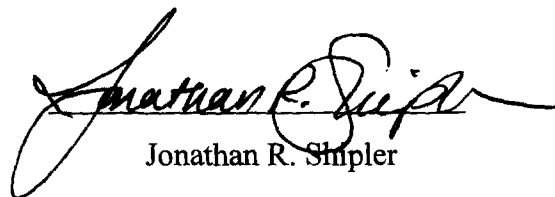
Of Counsel

March 1, 1996

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing "Comments of Bell Atlantic" was served this 1st day of March, 1996 by first class mail, postage prepaid, on the parties on the attached list.



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